

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

MARCOS SANTIAGO,

Plaintiff,

v.

ASSISTANT WARDEN EY, *et al.*,

Defendants.

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CIVIL NO. 4:CV-08-0102

(Judge McClure)

MEMORANDUM

April 10, 2009

Plaintiff Marcos Santiago (“Plaintiff” or “Santiago”), an inmate confined at the United States Penitentiary at Allenwood (“USP Allenwood”) in White Deer, Pennsylvania, initiated this *pro se* civil rights action pursuant to the provisions of 28 U.S.C. § 1331. Presently pending are several motions relating to discovery filed by Plaintiff after Defendants filed a motion to dismiss and for summary judgment (Record document no. 28) in response to his Complaint. These motions are disposed of below.

I. Plaintiff’s Motion for Order

In his motion, Plaintiff requests that this Court enter an Order directing the medical staff at USP Allenwood to disclose to him the name of the employee who was working in the medical department on February 20, 2007 at approximately 10:00 p.m.

so that Plaintiff can amend his Complaint to substitute this individual's name for the "John Doe" he has named as a defendant. (*See* Record document no. 34.)

Plaintiff is required to serve discovery requests on counsel for Defendants. *See* Fed. R. Civ. P. 5(a)(1)(C) and (b)(1). Plaintiff does not state that he served a discovery request on Defendants' counsel and that Defendants failed to make a disclosure pursuant to Fed. R. Civ. P. 37(a)(3)(A) or (B) such that he is requesting that this Court compel Defendants to respond to him. Accordingly, there is no basis for Plaintiff's motion, and it will be denied. However, the Court notes that, in its Memorandum denying Defendants' motion to dismiss and for summary judgment, it has provided for a period of discovery during which Plaintiff may attempt to discover the identity of John Doe by properly serving a discovery request on counsel for Defendants.

II. Plaintiff's Motion for Discovery

Plaintiff requests that this Court direct Defendants to disclose to him "thorough certified statement[s] and explanation[s]" regarding the results of his angiogram and MRI. (*See* Record document no. 38 at 1-2.) In their opposition brief, Defendants represent that Plaintiff did not serve a proper discovery request seeking this information on counsel for Defendants as is required by Fed. R. Civ. P. 5(a)(1)(C)

and (b)(1). (*See* Record document no. 42 at 2.) Because Plaintiff is not stating that Defendants failed to make a disclosure as required by Fed. R. Civ. P. 37(a)(3)(A) or (B) such that he is asking this Court to compel Defendants to respond to a properly served discovery request, there is no basis for his motion, and it will be denied.

III. Plaintiff's Second Motion for Discovery

In his second motion for discovery, Plaintiff again requests that this Court enter an Order directing Defendants to disclose to him the identity of the John Doe Defendant he names in his Complaint. (*See* Record document no. 44.) In their opposition brief, Defendants assert that Plaintiff has not served any requests for discovery on counsel for Defendants; rather, his requests have been made solely via motion to the Court. (*See* Record document no. 52 at 2.) Because Plaintiff is not stating that Defendants failed to make a disclosure as required by Fed. R. Civ. P. 37(a)(3)(A) or (B) such that he is asking this Court to compel Defendants to respond to a properly served discovery request, there is no basis for his motion, and it will be denied.

IV. Plaintiff's Motion to Stay

On July 14, 2008, Plaintiff filed his motion to stay (Record document no. 37) requesting that this Court stay its decision on Defendants' motion to dismiss or for

summary judgment until Defendants respond to the requests he makes in his motion for discovery (Record document no. 38), which he filed on the same date. Because this Court has determined that Plaintiff's motion for discovery will be denied, his motion to stay will be denied as moot. Consequently,

IT IS HEREBY ORDERED THAT:

1. Plaintiff's motion for order (Record document no. 34) is **DENIED**.
2. Plaintiff's motion for discovery (Record document no. 38) is **DENIED**.
3. Plaintiff's second motion for discovery (Record document no. 44) is **DENIED**.
4. Plaintiff's motion to stay (Record document no. 37) is **DENIED** as moot.

s/ James F. McClure, Jr.
JAMES F. McCLURE, JR.
United States District Judge